

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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BELINDA KAY ALBERALLA,

Plaintiff,

v.

**DECISION AND ORDER**  
17-CV-63-A

COMM. OF THE SOCIAL  
SECURITY ADMINISTRATION,

Defendant.

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This case was referred to Magistrate Judge Hugh B. Scott pursuant to 28 U.S.C. § 636(b)(1) for the conduct of pretrial proceedings. On December 5, 2017, Magistrate Judge Scott filed a Report and Recommendation (Dkt. No. 13), recommending that plaintiff Alberalla's motion for judgment on the pleadings (Dkt. No. 7) be denied and that the Commissioner's cross motion for judgment on the pleadings (Dkt. No. 11) be granted.

On December 19, 2017, plaintiff Alberalla filed objections to the Report and Recommendation. Dkt. No. 14. The United States filed a response on February 5, 2018. Dkt. No. 17. Plaintiff elected not to reply. Dkt. No. 18. The Court finds oral argument is unnecessary.

Pursuant to 28 U.S.C. § 636(b)(1)(B), the Court must make a *de novo* determination of those portions of the Report and Recommendation to which legally-proper objections have been made. The United States argues that the Court should conduct only clear error review because plaintiff Alberalla's objections merely

reiterate arguments raised below and addressed by the Magistrate Judge. See *Moss v. Colvin*, 845 F.3d 516, 519 n.2 (2d Cir . 2017). However, the Court has exercised its discretion to conduct *de novo* review and it is hereby

**ORDERED**, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, Plaintiff Aleberalla's motion for judgment on the pleadings (Dkt. No. 7) is denied, and the Commissioner's cross-motion for judgment on the pleadings (Dkt. No. 11) is granted. The Clerk of Court shall enter Judgment for the Commissioner and take all steps necessary to close the case.

**IT IS SO ORDERED.**

*Richard J. Arcara*

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HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT COURT

Dated: March 26, 2018